IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 17979 of 2004

Between:

K.Bapuji, S/o Umamasheshwar Rao,
R/o D.No.5/213-1, Javvarpet, Machilipatnam, Krishna District

..... PETITIONER

AND

The Executive Engineer, Roads & Buildings, Machilipatnam,
Krishna District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ or direction preferably writ of Mandamus declaring the letter No.84/D2/2004 dated 21-09-2004 issued by respondent as illegal, arbitrary, and violative of principles of natural justice and consequently direct the respondent to allot the work as per the bid i.e. item no.6 of tender notification 'Mtc.of Pedana-Bantumilli road from Km. 0/0 to 10/0 for 2004-05 since the petitioner is the successful bidder by executing necessary agreement

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent: GP FOR ROADS & BUILDINGS

The Court made the following :

ORDER:

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This writ petition is filed to declare the letter No.84/D2/2004 dated 21-09-2004 issued by the respondent as arbitrary and illegal.

Admittedly, the petitioner became the highest bidder for item No.6 of the tender notification issued by the respondent. The grievance of the petitioner is that no notice was given accepting his bid and also before cancellation of his bid, and therefore it is violative of principles of natural justice.

The respondent filed a counter stating that as per Clause 5.2 of the tender filed by the writ petitioner, the successful tenderer has to sign an agreement within a period of 15 days from the date of communication of acceptance of tender. The communication was dispatched to the writ petitioner on 30-08-2004 by post and as the writ petitioner has not entered into the agreement within the stipulated time, the tender of the writ petitioner was cancelled duly forfeiting the deposit.

But, the learned counsel for the petitioner vehemently contended that the petitioner has not received any such communication from the respondent and therefore forfeiture of deposit is illegal and not in accordance with law.

A specific plea has been taken by the respondent that the petitioner was already informed of the fact of acceptance of his tender and requested him to enter into an agreement by submitting a demand draft of Rs.2,200/- towards the balance Earnest Money Deposit. Therefore, the petitioner cannot take shelter under the alleged non-communication of order of acceptance. Therefore, sufficient opportunity has been given to the writ petitioner to enter into an agreement.

A perusal of the impugned order shows that the Earnest Money Deposit has been forfeited, as the writ petitioner failed to enter into agreement in spite of several notices. So, in my considered opinion, the order under challenge does not suffer from any legal infirmity, so as to warrant interference with the same. Further, the impugned order is not contrary to the contents of the tender notification. It is not the case of the writ petitioner that there was arbitrary action on the part of the respondent in forfeiting the deposit. As there is no allegation, whatsoever, complaining about the arbitrary action of the respondent, this Court cannot interfere with the impugned proceedings.

It is brought to the notice of this Court by the learned Government Pleader that again fresh tenders have been called for. Therefore, it is open for the petitioner to

participate in the said tender.

Accordingly, the writ petition is dismissed. No costs.

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08-12-2004

vs/sh

To

1. The Executive Engineer, Roads & Buildings, Machilipatnam, Krishna District.

2. 2CCs to the G.P for Roads and Buildings, High Court Buildings, Hyderabad(O.U.T).

3. 2CD copies